

Application No.: 09/867,813

Docket No.: 29785/10000

REMARKS

The courteous interview granted to applicant's undersigned attorney and attorney Andrew Lawrence on February 17, 2004 is hereby acknowledged with appreciation. At the interview, the invention, the outstanding Office Action, and the prior art Lan et al., European Patent EP 0 846 661 A2 were discussed in detail.

As discussed at the interview of February 17, 2004, the prior art Lan et al. European '661 patent includes an embodiment set forth on page 6, lines 11-45 wherein an intercalate is produced for the purpose of **delivering an active substance** to the skin in a cosmetic formulation. This intercalate may contain a surface modifier molecule that can be the same surface modifier molecule as that claimed herein by applicant in order to space the platelets sufficiently so that the active material also can be intercalated between the smectite clay platelet layers for delivery of the active substance to the user's skin or hair. The purpose of this embodiment for the intercalate disclosed on page 6 of the European '661 patent is for delivery of an active substance such as (page 6, lines 39-42) oxidizing agents for hair waving lotions, drugs for topical administration, and the like. As set forth on page 6, lines 11-13 of the European '661 patent, this embodiment of the intercalates is "used to deliver any active materials, such as in the cosmetic, hair care and pharmaceutical industries." This is the only embodiment within the European '661 patent that teaches that the intercalates may be in contact with the skin and only for the purpose of **delivering an active material** that is intercalated between the smectite clay platelet layers after intercalation of the surface modifier molecule.

As explained at the interview of the February 17, 2004, the purpose of the intercalates and methods claimed herein is for absorption of an allergen compound, e.g., allergenic organic compounds from plants such as poison ivy, poison oak, and poison sumac (see page 1, lines 15 and 16).

Applicant has now amended claims 13 and 14 to make them independent so that claims 13, 14, 40-43 and 50 are allowed. Those claims that have been rejected on the prior art Lan et al. European '661 patent have been amended to specify that the smectite clay is intercalated with an intercalant molecule **consisting essentially of** the surface modifier molecule(s). As explained at the interview of February 17, 2004, such language eliminates the dual intercalation of not only a surface modifier molecule but also an active substance

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such as the oxidizing agents and pharmaceutically active materials set forth in the European '661 patent.

While applicant's claimed intercalates may include intercalation of some of the carrier molecules such as water and/or organic solvents that are included in a cosmetically acceptable formulation for use in absorbing allergen molecules, the claims clearly do not allow for the incorporation of active materials for delivery to the skin, such as the oxidizing agents and pharmaceutically active compounds described in the European '661 patent.

Claim 38 has been amended to call for dual intercalation of the surface modifier molecule and a solvent, but excludes active materials, such as the oxidizing agents and pharmaceutically active materials required in the referenced Lan et al. skin-contacting embodiment.

It is submitted that the previously rejected claims 10-12, 15-22, 27-33, 37-39 and 44-49, clearly distinguish over the Lan et al. European '661 patent.

Accordingly, it is submitted that all claims are now of proper form and scope for allowance. Early and favorable consideration is respectfully requested.

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Respectfully submitted,

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